

### **REMARKS**

This communication is responsive to the Office Action dated March 5, 2004. Applicant has amended claims 11 and 12, and added new claims 21-24. Claims 1-24 are pending.

#### **Claim Rejection Under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-7 and 9-14 under 35 U.S.C. § 102(b) as being anticipated by Gardner et al. (USPN 5,758,327). Applicants respectfully traverse the rejection. Gardner fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. § 102(b), and provides no teaching that would have suggested the desirability of modification to include such features.

In general, Applicants' disclosure describes a system and method of managing product information approved by an end-user, e.g., a franchisor, and product ordering by a sub-end-user, e.g., a franchisee. In particular, the management is performed by a third-party, e.g., a material supplier, such that the third-party communicates product orders placed by the sub-end-user to an appropriate manufacturer. For example, a franchisor may provide a catalog of products approved for use in franchisee stores to a data storage device accessible via a network. A franchisee may review the catalog via a sub-end-user network interface, and may select products to order from the approved products catalog. A material supplier accesses the products selected for order by the franchisee via a third party network interface and transmits the order to an appropriate manufacturer. The material supplier may also market its materials to the franchisor for inclusion in the approved products and the manufacturer for use in manufacturing the products ordered by the franchisee. In this manner, embodiments of the invention are directed to an integrated system that provides access to three distinct parties (i.e., an end-user, a sub-end-user, and a third party) by which one party (i.e., the third party) manages product information that must first be approved by a second party (i.e., the end-user) for use by a third party (i.e., the sub-end-user).

#### ***Claims 1-7, 9, and 10***

With respect to claims 1-7, 9 and 10, Gardner fails to teach or suggest a system for third party management of end-user approved product information to at least one sub-end-user and product ordering by the sub-end-user based upon the approved product information of the end-

user, said system comprising a data storage device accessible via a network and having end-user approved product information stored in a first memory, a sub-end-user network interface providing network access by the sub-end-user to the end-user approved product information for ordering a selected product and by which a product order can be stored in a second memory, and a third party network interface having access to product orders stored within the second memory, as recited by Applicants' claim 1.

In support of the rejection, the Examiner stated that Gardner discloses a method of electronic requisition processing including a third party management 10 with a database of products or services that are approved by users 12, 14, 16. The Examiner further stated that a sub-end-user interface 18, 20, 22 is used for ordering a selected product or service, orders are stored in the third party, and orders are communicated to the vendors 24, 26, 28.

It appears that the Examiner equated a central computer system 10 from FIG. 1 of Gardner with a third party 24 from Applicants' FIG. 1. However, central computer system 10 does not describe a system that combines: (1) end-user approved product information, (2) a sub-end-user network interface providing access to the end-user approved product information for ordering a selected product, and (3) a third party network interface having access to product orders stored in a second memory of a data storage device. To the contrary, Gardner describes a conventional central computer system 10 that stores a catalog of products and services supplied by vendors 24, 26, 28, and provides access to the catalog to companies 12, 14, 16. In this manner, as described by Gardner, central computer system 10 operates similar to conventional systems in which companies electronically access catalogs for vendors. Consequently, the Gardner system does not address situations involving three distinct parties (i.e., an end-user, a sub-end-user, and a third party) in which one party (i.e., the third party) manages product information that must first be approved by a second party (i.e., the end-user) for use by a third party (i.e., the sub-end-user).

As a result, Gardner clearly fails to teach or suggest a system having a data storage device accessible via a network and having end-user *approved* product information stored in a first memory, a sub-end-user network interface providing network access by the sub-end-user to the end-user approved product information for ordering a selected product and by which a product

order can be stored in a second memory, and a *third party network interface* having access to product orders stored within the second memory, as recited by Applicants' claim 1.

Instead, Gardner describes central computer system 10 as storing requisition rules of each company 12, 14, 16 in order to receive approval for the purchase of products. Prior to communicating the orders to the vendors 24, 26, 28, the central computing system 10 initiates the purchase approval process according to the requisition rules. Gardner states:

*The requisition rules of each company 12, 14 and 16 are stored at the central computer system 10...the requisition rules of company 12 may include an authorization matrix that dictates persons who must approve a requisition, a routing engine that dictates the person-to-person sequence within the authorization process, and requirements related to bids.*

*(Gardner, Col. 5, ll. 13-22, emphasis added)*

Thus, Gardner describes a typical system in which a purchaser, e.g., an individual within a company, must "approve" a requisition prior to purchasing goods or services. This is fundamentally different from Applicants' described system that provides interfaces by which an end-user, such as a franchisor, is able to pre-approve product information from a third party before the product information is made available to a sub-end-user, such as a franchisee.

Although, Gardner describes a distribution provider 34 connected to central computer system 10, the distribution provider is an optional entity that is used to deliver items from the vendors 24, 26, and 28 to the companies 12, 14, and 16. Thus, the distribution provider described in Gardner does not comprise a third party manager that provides product information for approval by an end-user, as described by the present application, and Gardner makes no mention of the distribution provider having access via a network interface to product orders within the data storage device with respect to the approved product information, as recited by Applicants' claim 1.

Claims 2-7, 9, and 10 depend from independent claim 1 and are allowable for at least the reasons set forth above.

***Claims 11-14***

Gardner fails to teach or suggest a method of ordering a product by a sub-end-user based upon end-user approved product information provided to the sub-end-user, the method comprising the steps of providing access via a network to a third party for specifying products associated with the third party, providing access via the network to an end-user for approving one or more of the products specified by the third party and building an electronic catalog of product information approved by the end-user, providing access via the network to a sub-end-user for permitted reviewing of the electronic catalog having product information of at least one product that is approved by the end-user, the sub-end-user selecting a product from the electronic catalog and making a product order based upon product information that is approved by the end-user, providing access via the network to the third party for retrieving the sub-end-user product order, and the third party submitting the product order to a product manufacturer, as recited by Applicants' claim 11.

For reasons similar to those set forth above, Gardner fails to teach or suggest a third party for specifying products associated with the third party and an end-user for approving one or more of the products specified by the third party. Instead, Gardner describes a central computer system that connects to a number of companies and a number of vendors such that the companies may order products directly from the vendors. The central computer system disclosed by Gardner does not specify products for approval by the end-user. As described in further detail above, Gardner teaches receiving purchase approval by the company prior to submitting a product order, but does not teach product approval by the company to be included in the catalog.

In addition, claims 12-14 depend from independent claim 11, which is in condition for allowance. For at least the reasons described above, claim 12-14 are also in condition for allowance.

Gardner fails to disclose each and every limitation set forth in claims 1-7 and 9-14. For at least these reasons, the Examiner has failed to establish a prima facie case for anticipation of Applicants' claims 1-7 and 9-14 under 35 U.S.C. § 102(b). Withdrawal of this rejection is requested.

**Claim Rejection Under 35 U.S.C. § 103**

In the Office Action, the Examiner rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (US 5,758,327) in view of Smith et al. (US 6,052,669). In addition, the Examiner rejected claims 15-20 under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (US 5,758,327) in view of Fisher (US 6,331,858).

Applicants respectfully traverse the rejections. The applied references fail to disclose or suggest the inventions defined by Applicants' claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed invention.

***Claim 8***

In support of the rejection over Gardner in view of Smith, the Examiner stated that Gardner discloses all the features of the Applicants' claimed invention except the image gallery of the approved products and that Smith discloses a system and method for remote ordering of custom products that includes image galleries that permit customization of the order.

The Examiner recognized that Gardner does not disclose a custom image gallery stored as end-user approved product information within the first memory of the data storage device, as recited by Applicants' claim 8. However, the Examiner stated that it would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Smith to provide the system of Gardner with image galleries of the approved products in order to permit customization of the order.

As described above, Gardner does not teach or suggest all the features of Applicants' claimed invention. Gardner makes no mention of: (1) end-user approved product information, (2) a sub-end-user network interface providing access to the end-user approved product information for ordering a selected product, and (3) a third party network interface having access to product orders stored in a second memory of a data storage device, as recited by Applicants' claim 1. Therefore, modification of the electronic requisition processing system of Gardner to include the image gallery from Smith would not result in Applicants' claimed invention.

***Claims 15-20***

In support of the rejection over Gardner in view of Fisher, the Examiner stated that Gardner discloses all the features of the Applicants' claimed invention except ordering the products directly from the manufacturer and that Fisher discloses an ordering terminal from which products may be ordered from the warehouse or from the manufacturer. The Examiner stated that it would have been obvious to one of ordinary skill in the art in view of the showing and teaching of Fisher to order products in Gardner directly from the manufacturer if the items are not in stock.

As described above, Gardner does not teach or suggest all the features of Applicants' claimed invention. Gardner makes no mention of a third party for specifying products associated with the third party and retrieving the sub-end-user product order, as recited by Applicants' claim 11. Gardner also does not describe making a product order based upon product information specified by the third party and approved by the end-user. Furthermore, Fisher makes no mention of the third party reviewing the product order for any product material and services that are supplied by the third party, as recited by Applicants' claim 15. Therefore, adding the step from Fisher of ordering products directly from the manufacturer to the method of electronic requisition processing from Gardner would not result in Applicants' claimed invention. In addition, claims 16-20 depend from claim 15, which is in condition for allowance. Claims 16-20 are also in condition for allowance.

For at least these reasons, the Examiner has failed to establish a prima facie case for non-patentability of Applicants' claims 8 and 15-20 under 35 U.S.C. 103(a). Withdrawal of this rejection is requested.

**New Claims:**

Applicants have added claims 21-24 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicants new claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed inventions. As one example, the reference fail to disclose or suggest a system comprising a third party interface to electronically receive product information that specifies products associated with a third party, a franchisor interface for receiving input from a franchisor to approve one or

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more of the products to be used by one or more franchisees, and a franchisee interface providing the franchisees access to a portion of the product information for ordering one or more of the products approved by the franchisor, as recited by claim 22. No new matter has been added by the new claims.

### CONCLUSION

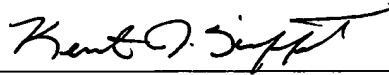
All claims in this application are in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

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